

REMARKS

This responds to the Office Action dated February 10, 2006, and the references cited therewith.

Claims 15, 17, 51, and 53 are amended, claims 16 and 52 are canceled, and claims 59 and 60 are added; as a result, claims 15, 17-20, 47-51, and 53-60 are now pending in this application.

Double Patenting Rejection

Claims 15-20 and 47-58 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-33 of U.S. Patent No. 6,622,040. A terminal disclaimer is submitted herewith to overcome the rejections.

Claims 15-20 and 42-58 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 65-86 of U.S. Application No. 10/655,569. As U.S. Application No. 10/655,569 was filed after the present application and applicant believes that the remaining rejections in the case have been overcome, withdrawal of the rejections pursuant to MPEP 804 is respectfully requested.

§102 Rejection of the Claims

Claims 15 and 51 were rejected under 35 U.S.C. § 102(b) as being anticipated by Stone et al. (U.S. Patent No. 5,372,607). Claims 15 and 51 have been amended herein in a manner believed to overcome the rejections. Applicant finds nothing in the Stone et al. reference that relates to pacing site selection.

§103 Rejection of the Claims

Claims 16, 17, 52 and 53 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Stone et al. (U.S. Patent No. 5,372,607) in view of Sweeney et al. (U.S. Patent No. 6,272,377). Applicant respectfully traverses the rejection as Sweeney et al. and the present application are commonly assigned. In view of the common ownership of the present application and Sweeney et al. as declared below, Applicant respectfully submits that the rejections have been overcome.

Claims 47-50, 57 and 58 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Stone et al. (U.S. Patent No. 5,372,607). Applicant believes that the amendments to independent claims 15 and 51, from which claims 47-50 and 57-58 respectively depend, have overcome the rejections on this basis. The rejections are traversed for the record, however, as applicant disputes that it was well-known in the art at the time the invention was made to determine an AV interval with a weighted average of PR intervals using separate paced and intrinsic coefficients. No evidence to the contrary has been put forth.

Statement of Common Ownership

Applicant declares that, at the time the present invention was made, the present application and U.S. Patent No. 6,272,377 were owned by the same entity. Since that patent could only otherwise qualify as prior art to the present application under 35 U.S.C. 102(e), (f), or (g), it is disqualified as prior art for purposes of section 103(a) under 35 U.S.C. 103(c).

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (847) 432-7302 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

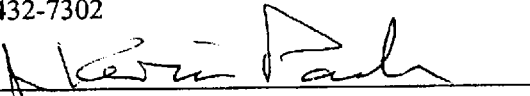
PAR LINDH ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(847) 432-7302

Date 5-10-06

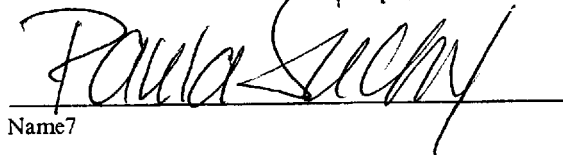
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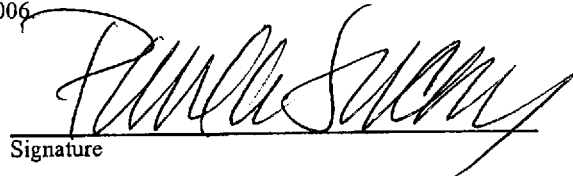


Kevin Parker

Reg. No. 33,024

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 10 day of May, 2006.


Name


Signature